

RDMD/Planning and Development Services

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DATE: February 23, 2006

TO: Orange County Zoning Administrator

FROM: Resources and Development Management Department/Land Use Services Division

SUBJECT: Public Hearing on Planning Application PA05-0049 for a front and rear set back Variance.

PROPOSAL: Request for approval of a front yard setback of 11 feet in the area of new construction; and a rear yard setback of 9 feet to the rear property line, where 25 feet is required to permit additions on the first and second floors that were previously built without permits.

LOCATION: 29076 Kommers Lane, Modjeska, unincorporated Modjeska Canyon area, within the Third Supervisorial District

APPLICANT: James and Roseli Lago, property owner

STAFF Yosh Kawasaki, Staff Planner

CONTACT: Phone: (714) 834-4389 FAX: (714) 667-8344

SYNOPSIS: PDS/Current and Advance Planning Service recommends Zoning Administrator approval of Permit Application No. PA05-0049, for the Variances subject to findings and conditions attached.

BACKGROUND:

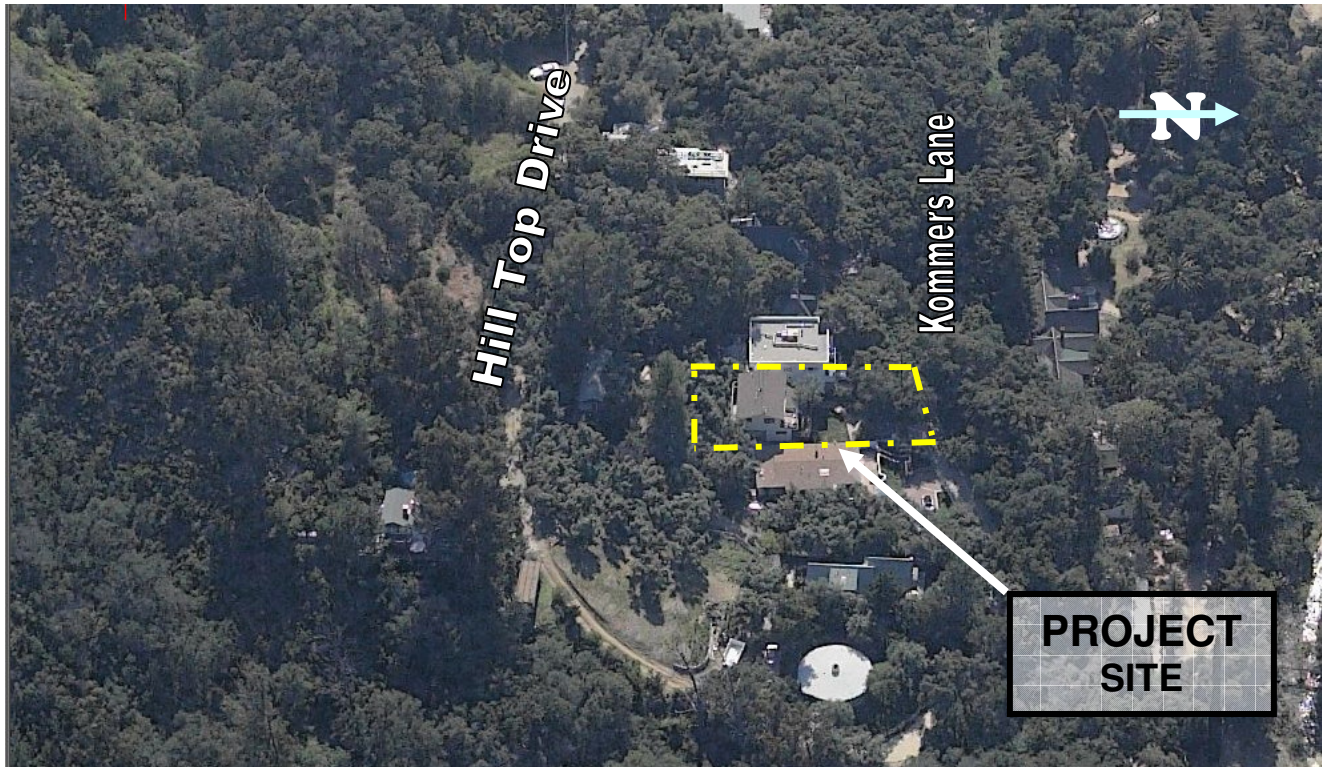
The project is located at 29076 Kommers Lane (Lot 481 of Modjeska Home Sheet "H" Tract 496). The site was originally developed in the 1950's with a single family home. The dwelling is presently a 1,449 square foot, split-level 2-story, single family home with a detached 348 square foot 1½ car garage on an approximately 4,363 square foot irregular shaped hill side lot. The lot is 44.70 feet wide at the front and 40.80 feet wide at the rear, with an average depth of approximately 102 feet.

The property has an existing Variance (V4202) which allowed a 420 square foot guest house 7 feet – 6 inch setback from the rear property line. The second story area of the dwelling appears to have been constructed without permits some time between 1955 and the 1970's.

The property is currently zoned A1 "General Agricultural" District which requires minimum setbacks of 20 foot front, five (5) feet sides and 25 feet rear; a building site width of seventy (70) feet; and a minimum lot size of four (4) acres. The use was lawfully established in the 1950's, but is now nonconforming with existing zoning regulations because of the small lot size (less than 4 acres) and narrow building site width (less than 70 feet). Section 7-9-151 "Nonconforming Uses And Structures", allows for the continued use as "legal non-conforming".

SURROUNDING LAND USE:

Direction	Land Use Designation	Existing Land Use
Project Site	A1 “General Agricultural” District	Single family dwelling
North	A1 “General Agricultural” District	Single family dwelling
South	A1 “General Agricultural” District	Single family dwelling
East	A1 “General Agricultural” District	Single family dwelling
West	A1 “General Agricultural” District	Single family dwelling



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to other County Divisions.

As of the writing of this staff report, no written comments from other County Divisions raising issues with the project have been received by staff.

CEQA COMPLIANCE:

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from its requirements (Class 5, minor alterations in land use such as a setback variance).

DISCUSSION/ANALYSIS:

As part of the interior remodeling and expansion of an existing non-conforming two-story single family dwelling, the homeowner is seeking an approval of a Variance for a rear yard structural setback to permit the existing first and second floors that were constructed without permits at some time between 1955 and the 1970's; and a front yard variance to allow the widening of an existing 1½ car garage to a full two car garage to bring the off street parking up to current codes.

The current first floor area of 822 square feet is recognized as the permitted floor space of the home built in 1955. The existing second floor area of 625 square feet is not recognized as having been permitted in any way. The proposed 2-story residence will require a rear yard setback variance to allow the two floors to be located as close as 9 feet from the rear property line where originally only one floor of living space was permitted in 1955 with a 7 feet 6 inch rear variance. The current rear setback requirement is 25 feet. As part of the expansion, the applicant's proposal would increase the dwelling 568 square feet on the first floor and 534 square feet on the second floor for a total of 1,102 square feet of additional space. The total finished dwelling size would be 2,549 square feet in size.

Under current Zoning Code regulations (Section 7-9-145.3 "Residential Off-Street Parking Requirements"), the total living space of the house may not exceed 1,000 square feet without a 2 car garage, a carport with a minimum of 17 feet from the front property line, or a variance for an alternative proposal. The applicant proposes to modify the existing 348 square foot 1½ car garage to a full 2-car garage. The garage addition will add 82 square feet to create a new 430 square foot 2-car garage. Due to the irregular shape of the lot, the existing garage, measured from its nearest point, is 6 feet and tapers back to approximately 11 feet from the front property line. The proposed new construction will follow the architectural lines of the front of the garage and taper further back approximately 11.5 feet from the front property line. The requested front setback variance would be less than what is currently existing.

Variance 4202 for the house approved a 420 square foot guesthouse, 7 feet 6 inches from the rear property line (eaves at 6 feet from rear) as opposed to the required setback of 25 feet. It appears that the existing dwelling was built around the original guesthouse and now exists within the first floor of the existing two-story structure. Detached garage does not appear on Variance V4202 plot plan, it should be noted that a two-car garage was not required for a single family dwelling until the mid 1960's.

In terms of the appropriate considerations for this request, the Zoning Code allows for Variances in which granting of the proposed Variance is superior to the alternative of forced compliance to the regulatory standards which could require the demolition of the dwelling. One circumstance of justification is the "architectural" nature of the structures which has been established. In this case, the house was constructed at some point within the legal (permitted) limits of the rear setbacks. The detached garage setback requested is less than what is currently existing. Therefore, approval of the variance would not be a grant of special privilege not already enjoyed by home owner.

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and
- b. Approve Planning Application PA050049 for a site development permit allowing an alternative rear yard structural setback standard, subject to findings and conditions of approval.

Respectfully submitted,

Signature on file

Charles Shoemaker, Chief
LPSD/Site Planning Section

EXHIBITS:

1. Applicant's Letter of Explanation
2. Project Plans (Site Plan, Floor Plan and Elevation)
3. Color Photographs (Zoning Administrator's copy only)
4. Environmental documentation

ATTACHMENTS:

- A. Findings of Approval
- B. Conditions of Approval

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 for a single family dwelling matter or \$760.00 for all other matters, to be filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Dept.